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PATENT LAW DEPARTMENT
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OFFICE OF PETITIONS

In re Application of	:	
Gregor Sagner et al	:	DECISION DISMISSING
Application No. 10/678,440	:	PETITION
Filed: October 1, 2003	:	
Attorney Docket No. 21428-US	:	

This is a decision on the petition under 37 CFR 1.182, filed on May 7, 2004, which is being treated as a request to withdraw the requirement for omitted Figures 3 and 4.

On October 1, 2003, the above-identified application was filed. However, on March 29, 2004, the Office of Initial Patent Examination mailed a "Notice of Missing Parts of Application," stating, *inter alia*, that the application had been accorded a filing date of October 1, 2003, and advising applicant that Figures 3 and 4 described in the specification appeared to have been omitted.

In response, on May 7, 2004, applicant filed the present petition and authorization to charge the \$130.00 petition fee to deposit account no. 50-0812. Applicant explains that Figures 3 and 4 were not missing on filing the application. Applicant further explains that Figures 3 and 4 were a synopsis of Figures 3A-3D and Figures 4A-4B, which were fully supported in the specification.

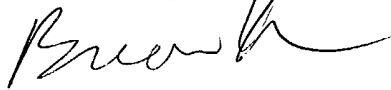
It is obvious from the petition that no drawings were actually missing on filing the above-application. Rather, no Figures 3 or 4 were intended to be filed, but rather served as a description of Figures 3A-3D and Figures 4A-4B, respectively. However, because the specification referenced Figures 3 and 4, those Figures appeared to have been omitted. As explained in MPEP 601.01(g), as long as drawings for Figures 3A-3D and 4A-4B were present, the inclusion of text referring to Figures 3 and 4 should not have resulted in the mailing of the Notice of Omitted Items; as this was an error in the specification not the drawings.

Accordingly, the petition is dismissed as moot. No fee is due.

Applicant should submit a preliminary amendment to the specification deleting the references to Figures 3 and 4 in compliance with 37 CFR 1.121.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 1, 2003, using the drawings filed on that date.

Any inquiries related to this decision should be directed to Karen Creasy at (703) 305-8859.

A handwritten signature in cursive script, appearing to read "Brian Hearn", written in dark ink.

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Policy and Examination